

**CAHILL GORDON & REINDEL LLP**

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September 28, 2010

**Via ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: CC Docket No. 00-257 – Birch Communications, Inc., American Fiber Network, Inc., and CloseCall America, Inc. Notification Pursuant to 47 C.F.R. § 64.1120**

Dear Secretary Dortch:

Birch Communications, Inc. (“BCI”), on behalf of itself and the subsidiaries noted below (collectively, “Birch”), American Fiber Network, Inc. (“AFN”), on behalf of itself and its subsidiary American Fiber Network of Virginia, Inc. (collectively, “AFN”), and CloseCall America, Inc., on behalf of itself and its subsidiary CloseCall America, Inc. of Virginia (collectively, “CCA”) (Birch, AFN, and CCA collectively, the “Applicants”), hereby notify the Federal Communications Commission (“Commission”) pursuant to 47 C.F.R. § 64.1120(e)(1) of the pending transfer of certain CCA and AFN customers to Birch.

**Parties to the Transaction:** The Applicants filed a request for approval of the transfer of certain CCA and AFN assets, including customers of CCA and AFN, to Birch on September 23, 2010.<sup>1</sup> The following entities are involved in this transaction:

American Fiber Network, Inc.  
American Fiber Network of Virginia, Inc.

CloseCall America, Inc.  
CloseCall America, Inc. of Virginia

Birch Communications, Inc.  
Birch Communications of the Northeast, Inc. dba Birch Communications  
Birch Communications of Virginia, Inc. dba Birch Communications

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<sup>1</sup> *Application of Birch Communications, Inc., Birch Telecom, Inc., American Fiber Network, Inc., and CloseCall America, Inc. for Consent to Assign Assets and/or Transfer Control of Assets pursuant to Section 214 of the Communications Act of 1934, as Amended* (filed Sept. 23, 2010); ITC-214-19990908-00561 (filed Sept. 22, 2010).

Birch Telecom of the South, Inc. dba Birch Communications  
Birch Telecom of the West, Inc. dba Birch Communications  
Birch Telecom of the Great Lakes, Inc. dba Birch Communications  
Birch Telecom of Missouri, Inc. dba Birch Communications  
Birch Telecom of Oklahoma, Inc. dba Birch Communications  
Birch Telecom of Texas LTD LLP dba Birch Communications  
Birch Telecom of Kansas, Inc. dba Birch Communications  
Ionex Communications, Inc. dba Birch Communications  
Ionex Communications South, Inc. dba Birch Communications  
Ionex Communications North, Inc. dba Birch Communications

**Type of Telecommunications Services Provided to Affected Subscribers:** AFN provides interstate and international telecommunications services to its subscribers, and CCA provides domestic interstate telecommunications services to its subscribers. The customer transfer involves customers currently receiving AFN and CCA services in the following states: Alabama, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, and Wisconsin.

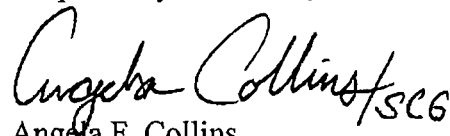
**Planned Date of Transfer:** CCA and AFN subscribers will be transferred on or after December 1, 2010, subject to the Applicants receiving all necessary regulatory approvals.

**Certification of Compliance:** Birch hereby certifies that it will comply with the requirement to provide advance notice to affected CCA and AFN subscribers in accordance with 47 C.F.R. § 64.1120(e)(3), with the obligations specified in that notice as applicable, and with the other statutory and Commission requirements that apply to this streamlined process. Please see the attached verification.

**Copy of Notice To Be Sent to Affected Subscribers:** Drafts of the notices to be sent to affected subscribers are attached. Please note that there are specific customer notice drafts for use in the states of Massachusetts, Missouri, New Jersey, New York, and Tennessee that comply with 47 C.F.R. § 64.1120 and applicable customer notice requirements in those states. Customers in all other states will receive the same notice in compliance with 47 C.F.R. § 64.1120.

If you have any questions regarding this matter, please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink that reads "Angela Collins/sc6". The signature is fluid and cursive.

Angela F. Collins  
Counsel for Birch Communications, Inc.

Attachments

**Verification**

I, Christopher J. Bunce, Vice President, Legal, General Counsel and Secretary of Birch Communications, Inc., Birch Telecom, Inc., and their subsidiaries hereby certify under penalty of perjury that the statements in the foregoing filing are true, complete, and correct to the best of my knowledge and belief.

Date:

9/28/2010



\_\_\_\_\_  
Christopher J. Bunce  
Vice President, Legal, General Counsel and Secretary

**ATTACHMENT**

**Draft Customer Notices**



**IMPORTANT NOTICE**  
**REGARDING A CHANGE IN YOUR TELECOMMUNICATIONS SERVICES**

Dear \_\_\_\_\_

Birch Communications ("Birch") and CloseCall America, Inc. ("CCA") are pleased to announce that Birch will acquire CCA's local and long distance telephone customers. Subject to approval by the Federal Communications Commission and state regulators, Birch will replace CCA as your current telecommunications service provider on or after **[30 DAYS]** (the "Transfer Date"). As a result of this transaction, Birch will assume responsibility for all services previously provided to you by CCA. Birch is excited about the opportunity to provide your telecommunications service(s) and looks forward to a long and successful business relationship.

Please rest assured, the transition will have little or no impact on your current services, nor will there be any interruption of your service. The agreement between Birch and AFN has been structured so that the transfer of service will be virtually seamless other than the possibility of a minor change to your voice mail service for which you will receive additional information.<sup>1</sup> There may be instances, however, where there are service or rate structure dissimilarities that Birch cannot accommodate with its existing systems (e.g., customers currently utilizing a message or measured local service plan). In those cases, Birch will transition you in a neutral manner and **with no increase to your regular monthly recurring charges**. You will retain all other service rates, features, terms, and conditions of service and your telephone phone number. You will not incur any charges for the transfer of services to Birch and **no action is required from you to continue your telecommunications service(s) with Birch**. You will receive your first billing statement from Birch starting with your **[INSERT MONTH]** or **[INSERT MONTH]** bill. As in the past, you are responsible for paying all bills rendered to you by CCA during the transition of service.

You do have the right to select a different carrier for the telecommunications service(s) at issue. If you choose to switch to an alternate carrier for services, you may incur a fee for the transfer of services to that alternate carrier. In addition, should you have a term commitment with CCA and you disconnect services or transfer to another carrier prior to the end of that term, you will be liable for any early termination charges.

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If you select a local telephone service provider other than Birch, you should also contact your current long distance provider to ensure that your current long distance plan is not changed.

Please note that if you are a customer of CCA on the Transfer Date, your account will automatically be transferred to Birch. Please note that any preferred carrier "freeze" you have placed on your existing telephone lines to prevent unauthorized transfer of your services to another carrier will be over-ridden for purposes of this transaction and will need to be reinstated by you by contacting your local exchange carrier after the transfer is complete.

If you have any questions about this transaction or your service or billing prior to the actual Transfer Date, you should contact CCA at **877-81-CLOSE (25673)**.

If you have any questions regarding this transaction or your service or billing after the actual Transfer Date, you should contact Birch at **888-275-0777**.

**About Birch Communications** - Headquartered in Atlanta, Georgia, Birch Communications is one of the largest competitive local exchange carriers in its 38-state southeast, southwest, midwest and northeast regions serving residential and business customers. Birch was the first in its class to deploy its own private IP network utilizing soft switch technology to deliver innovative, high quality, affordable voice and broadband communications services to small and medium business customers.

CCA thanks you for your business and Birch looks forward to providing you with quality service for many years to come.

Sincerely,

CloseCall America, Inc. and  
Birch Communications



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Birch Communications ("Birch") and American Fiber Network, Inc. ("AFN") are pleased to announce that Birch will acquire AFN's local and long distance telephone customers. Subject to approval by the Federal Communications Commission and state regulators, Birch will replace AFN as your current telecommunications service provider on or after **[30 DAYS]** (the "Transfer Date"). As a result of this transaction, Birch will assume responsibility for all services previously provided to you by AFN. Birch is excited about the opportunity to provide your telecommunications service(s) and looks forward to a long and successful business relationship.

Please rest assured, the transition will have little or no impact on your current services, nor will there be any interruption of your service. The agreement between Birch and AFN has been structured so that the transfer of service will be virtually seamless other than the possibility of a minor change to your voice mail service for which you will receive additional information.<sup>1</sup> There may be instances, however, where there are service or rate structure dissimilarities that Birch cannot accommodate with its existing systems (e.g., customers currently utilizing a message or measured local service plan). In those cases, Birch will transition you in a neutral manner and **with no increase to your regular monthly recurring charges**. You will retain all other service rates, features, terms, and conditions of service and your telephone phone number. You will not incur any charges for the transfer of services to Birch and **no action is required from you to continue your telecommunications service(s) with Birch**. You will receive your first billing statement from Birch starting with your **[INSERT MONTH]** or **[INSERT MONTH]** bill. As in the past, you are responsible for paying all bills rendered to you by AFN during the transition of service.

You do have the right to select a different carrier for the telecommunications service(s) at issue. If you choose to switch to an alternate carrier for services, you may incur a fee for the transfer of services to that alternate carrier. In addition, should you have a term commitment with AFN and you disconnect services or transfer to another carrier prior to the end of that term, you will be liable for any early termination charges.

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If you select a local telephone service provider other than Birch, you should also contact your current long distance provider to ensure that your current long distance plan is not changed.

Please note that if you are a customer of AFN on the Transfer Date, your account will automatically be transferred to Birch. Please note that any preferred carrier "freeze" you have placed on your existing telephone lines to prevent unauthorized transfer of your services to another carrier will be over-ridden for purposes of this transaction and will need to be reinstated by you by contacting your local exchange carrier after the transfer is complete.

If you have any questions about this transaction or your service or billing prior to the actual Transfer Date, you should contact AFN at **800-864-0583**.

If you have any questions regarding this transaction or your service or billing after the actual Transfer Date, you should contact Birch at **888-275-0777**.

**About Birch Communications** - Headquartered in Atlanta, Georgia, Birch Communications is one of the largest competitive local exchange carriers in its 38-state southeast, southwest, midwest and northeast regions serving residential and business customers. Birch was the first in its class to deploy its own private IP network utilizing soft switch technology to deliver innovative, high quality, affordable voice and broadband communications services to small and medium business customers.

AFN thanks you for your business and Birch looks forward to providing you with quality service for many years to come.

Sincerely,

American Fiber Network, Inc. and  
Birch Communications





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You do have the right to select a different carrier for the telecommunications service(s) at issue. If you choose to switch to an alternate carrier for services, you may incur a fee from the alternate carrier for the transfer of services to that alternate carrier.

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In addition, should you have a term commitment with AFN and you disconnect services or transfer to another carrier prior to the end of that term, you will be liable for any early termination charges. If you select a local telephone service provider other than Birch, you should also contact your current long distance provider to ensure that your current long distance plan is not changed.

Please note that if you are a customer of AFN on the Transfer Date, your account will automatically be transferred to Birch. Please note that any preferred carrier "freeze" you have placed on your existing telephone lines to prevent unauthorized transfer of your services to another carrier will be over-ridden for purposes of this transaction and will need to be reinstated by you by contacting your local exchange carrier after the transfer is complete.

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AFN thanks you for your business and Birch looks forward to providing you with quality service for many years to come.

Sincerely,

American Fiber Network, Inc. and  
Birch Communications



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You do have the right to select a different carrier for the telecommunications service(s) at issue. A listing of other carriers providing service in the area is located on the Missouri Public Service Commission's website. If you do not wish to receive service from Birch, you should select and contact an alternate carrier directly to arrange to transfer your service before **[30 DAYS]**. If you choose to switch to an alternate carrier for services, you may incur a fee for the transfer of services to that alternate carrier. In

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Please be aware that your customer proprietary network information ("CPNI")<sup>2</sup> will be transferred to Birch as part of this transaction, including any opt-in or opt-out authorization you've previously provided to CCA for use of your CPNI. At this time, however, Birch does not use or disclose CPNI for marketing purposes.

If you have any questions about this transaction or your service or billing prior to the actual Transfer Date, you should contact AFN at **800-864-0583**.

If you have any questions regarding this transaction or your service or billing after the actual Transfer Date, you should contact Birch at **888-275-0777**.

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Sincerely,

American Fiber Network, Inc. and  
Birch Communications

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<sup>2</sup> CPNI includes information regarding the configuration, type, destination, location, and amount of telecommunications services you purchase.



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CCA thanks you for your business and Birch looks forward to providing you with quality service for many years to come.

Sincerely,

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Birch Communications

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<sup>2</sup> About Birch Communications - Headquartered in Atlanta, Georgia, Birch Communications is one of the largest competitive local exchange carriers in its 38-state southeast, southwest, midwest and northeast regions serving residential and business customers. Birch was the first in its class to deploy its own private IP network utilizing soft switch technology to deliver innovative, high quality, affordable voice and broadband communications services to small and medium business customers.



**IMPORTANT NOTICE**  
**REGARDING A CHANGE IN YOUR TELECOMMUNICATIONS SERVICES**

Dear \_\_\_\_\_

Birch Communications ("Birch") and CloseCall America, Inc. ("CCA") are pleased to announce that Birch will acquire CCA's local and long distance telephone customers. Subject to approval by the Federal Communications Commission and state regulators, Birch will replace CCA as your current telecommunications service provider on or after **[30 DAYS]** (the "Transfer Date"). As a result of this transaction, Birch will assume responsibility for all services previously provided to you by CCA. Birch is excited about the opportunity to provide your telecommunications service(s) and looks forward to a long and successful business relationship.

Please rest assured, the transition will have little or no impact on your current services, nor will there be any interruption of your service. The agreement between Birch and CCA has been structured so that the transfer of service will be virtually seamless other than a minor change to your voice mail service.<sup>1</sup> There may be instances, however, where there are service or rate structure dissimilarities that Birch cannot accommodate with its existing systems (e.g., customers currently utilizing a message or measured local service plan). In those cases, Birch will transition you in a neutral manner and ***with no increase to your regular monthly recurring charges.*** You will retain all other service rates, features, terms, and conditions of service and your telephone phone number. You will not incur any charges for the transfer of services to Birch and **no action is required from you to continue your telecommunications service(s) with Birch.** You will receive your first billing statement from Birch starting with your **[INSERT MONTH]** or **[INSERT MONTH]** bill. As in the past, you are responsible for paying all bills rendered to you by CCA during the transition of service.

You do have the right to select a different carrier for the telecommunications service(s) at issue. If you do not wish to receive service from Birch, you should select and contact an alternate carrier directly to arrange to transfer your service before **[20 DAYS]**. If you choose to switch to an alternate carrier for services, you may incur a fee for the transfer of services to that alternate carrier. In addition, should you have a term commitment with CCA and you disconnect services or transfer to another carrier prior to

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the end of that term, you will be liable for early termination charges. If you select a local telephone service provider other than Birch, you should also contact your current long distance provider to ensure that your current long distance plan is not changed.

Please note that if you are a customer of CCA on the Transfer Date, your account will automatically be transferred to Birch. Please note that any preferred carrier "freeze" you have placed on your existing telephone lines to prevent unauthorized transfer of your services to another carrier will be over-ridden for purposes of this transaction and will need to be reinstated by you by contacting your local exchange carrier after the transfer is complete.

If you have any questions about this transaction or your service or billing prior to the actual Transfer Date, you should contact CCA at **877-81-CLOSE (25673)**.

If you have any questions regarding this transaction or your service or billing after the actual Transfer Date, you should contact Birch at **888-275-0777**.

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CCA thanks you for your business and Birch looks forward to providing you with quality service for many years to come.

Sincerely,

CloseCall America. Inc. and  
Birch Communications



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Dear \_\_\_\_\_

Birch Communications ("Birch") and American Fiber Network, Inc. ("AFN") are pleased to announce that Birch will acquire AFN's local and long distance telephone customers. Subject to approval by the Federal Communications Commission and state regulators, Birch will replace AFN as your current telecommunications service provider on or after **[30 DAYS]** (the "Transfer Date"). As a result of this transaction, Birch will assume responsibility for all services previously provided to you by AFN. Birch is excited about the opportunity to provide your telecommunications service(s) and looks forward to a long and successful business relationship.

Please rest assured, the transition will have little or no impact on your current services, nor will there be any interruption of your service. The agreement between Birch and AFN has been structured so that the transfer of service will be virtually seamless other than a minor change to your voice mail service.<sup>1</sup> There may be instances, however, where there are service or rate structure dissimilarities that Birch cannot accommodate with its existing systems (e.g., customers currently utilizing a message or measured local service plan). In those cases, Birch will transition you in a neutral manner and **with no increase to your regular monthly recurring charges**. You will retain all other service rates, features, terms, and conditions of service and your telephone phone number. You will not incur any charges for the transfer of services to Birch and **no action is required from you to continue your telecommunications service(s) with Birch**. You will receive your first billing statement from Birch starting with your **[INSERT MONTH]** or **[INSERT MONTH]** bill. As in the past, you are responsible for paying all bills rendered to you by AFN during the transition of service.

You do have the right to select a different carrier for the telecommunications service(s) at issue. If you do not wish to receive service from Birch, you should select and contact an alternate carrier directly to arrange to transfer your service before **[20 DAYS]**. If you choose to switch to an alternate carrier for services, you may incur a fee for the transfer of services to that alternate carrier. In addition, should you have a term commitment with AFN and you disconnect services or transfer to another carrier prior to

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If you have any questions about this transaction or your service or billing prior to the actual Transfer Date, you should contact AFN at **800-864-0583**.

If you have any questions regarding this transaction or your service or billing after the actual Transfer Date, you should contact Birch at **888-275-0777**.

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Birch Communications ("Birch") and CloseCall America, Inc. ("CCA") are pleased to announce that Birch will acquire CCA's local and long distance telephone customers. Subject to approval by the Federal Communications Commission and state regulators, Birch will replace CCA as your current telecommunications service provider on or after **[60 DAYS]** (the "Transfer Date"). As a result of this transaction, Birch will assume responsibility for all services previously provided to you by CCA. Birch is excited about the opportunity to provide your telecommunications service(s) and looks forward to a long and successful business relationship.

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